



## **Minutes**

### **The Governor's Citizen's Traffic Stop Advisory Board**

**September 21, 2007**

**Coconino County Board of Supervisors Building  
219 East Cherry  
Flagstaff, Arizona 86001**

**Members Present:** Supervisor Liz Archuleta, Jay Cabou, Luis Fernandez, Zoe Hammer, Tom Milldebrandt, Sal Rivera.

**Members Absent:** Mel Hanna, Orlenda Roberts, Lorenzo Jones

**Staff:** Dora Vasquez, Director, Governor's office of Boards and Commissions

**1. Introduction of Advisory Board Members/Call to Public:** Supervisor Liz Archuleta, began the meeting by introducing herself as chairperson for the meeting in Chairman Mel Hanna's absence. She then went on to ask each board member to introduce himself or herself. Supervisor Archuleta stated that the first item of business was to announce a call to the public, hearing no public comment at this time, Supervisor Archuleta moved to close the call to the public and continue on to the second item of business. She noted however that the public could comment at a later time on specific agenda items.

**2. Approval of Minutes, July 27, 2007:** Supervisor Archuleta asked if there were any modifications to the minutes from the last meeting held on July 27, 2007.

Supervisor Archuleta indicated she saw one revision contained within Item #2, on the Board Sub Committee Action Plan. The change being within the first sentence that reads "Supervisor Archuleta explained that the purpose of the sub-committee" etc. needs to be changed to the "proposed purpose of the sub committee" due to the fact that what was provided was in draft form. The second modification was in the last sentence where it was captured that

Supervisor Archuleta stated, “she intended to go to communities around the state”, it should actually read, “the public outreach committee may go to communities around the state”.

**ACTION:** Mr. Mildebrandt motioned to approve the minutes with revisions; Dr. Fernandez seconded the motion and the motion passed unanimously.

**3. Department of Public Safety Complaint and Acceptance Policy and Procedure:** At this point Supervisor Archuleta welcomed Chief Mike Longman, Agency Support Division of the Department of Public Safety. Chief Longman indicated he would keep his talk brief and that he provided each member with a handout of a power point presentation.

In the first slide, Chief Longman explained that separation of racially biased police allegations from others is not possible as the complaint acceptance process encompasses the overall multitude of possible allegations.

In the second slide, he described the DPS mission and policy statements and core values.

The third slide explained the compliant acceptance manual, it’s introduction and it’s definitions. This manual accentuates the commitment of officers to public trust and response to citizen complaints regarding DPS operations and employee conduct. All complaints are investigated thoroughly and objectively.

Chief Longman informed the committee that DPS has internal and external compliant procedures in place, adding that the focus for this committee is to be aware that there are many ways in which to lodge a complaint. Some examples being:

- 1). DPS will accept third party complaints
- 2). DPS will investigate anonymous complaints
- 3). DPS will allow for complaints to be submitted either in person, by phone or the US mail.

DPS has a link on their Website (AZDPS.COM) with a policy statement regarding racial profiling and bias based policing. There are pamphlets available to download in both English and Spanish.

At this point Supervisor Archuleta took questions from the committee.

One of the questions was how many allegations have been made regarding racial profiling?

Chief Longman replied that since the formation of the Governor’s Traffic Stop Board there have been 9 allegations of racial profiling. One is currently an open case, under investigation and the other 8 were found not sustained.

Another member asked about the existence of a tracking system to indicate what might come in as a racial profiling complaint and then in conclusion turned out to be something else. Chief Longman said that they do find that to be the case occasionally where something could have come in as racial profiling and then turned out to be gross misconduct, criminal misconduct or excessive force for example.

The fourth slide Chief Longman showed had to do with Elements of General Order of Standards, which basically tells all DPS employees that racial profiling is unethical and unacceptable for the purpose of traffic stops or investigations. There are specific guidelines for employees so they can recognize what bias based profiling is.

It was also clarified that any allegations coming in are investigated by professional standards, conducted by a criminal investigator.

Next question asked of Chief Longman was for him to explain the difference between probable cause to search and the need for written consent to search. Officer Longman said there is only a need for written consent if there is no probable cause. An officer must be able to articulate he or she's facts so they can be documented to justify the need for a search.

Board member Zoe Hammer asked about a portion in Section 5, that state a supervisor should insure that personnel are familiar with the racial profiling policy. Her question was how does this happen? Is it in the form of a "ride along", how is it insured?

Chief Longman replied that is one of the methods used in training. Another gauge is to view situation warnings and attend court proceedings to see how officers are testifying.

Board member Zoe Hammer asked if when they receive a complaint on racial profiling is there any follow up as to how the complaint was handled, a satisfaction survey on the process?

Chief Longman said no but that he thought that was a good idea. He did say that a form letter is sent out indicating the outcome of the complaint. Sustained, founded, etc. and a brief description.

Supervisor Archuleta indicated that she would like to commend Chief Longman on the brochure that was submitted with the packet today detailing the paragraph that states "Racial Profiling has no place in the Department of Public Safety".

She did however; suggest inserting a paragraph to strengthen this conviction. The paragraph could state that if you experience or perceive racial profiling please contact the department or fill out this complaint form. The statement that there is no place for racial profiling within DPS is a very strong statement but when people experience it they need to know what to do with it. A form would draw them to action.

Chief Longman thanked her and indicated he would take that into consideration.

The next question to Chief Longman was whether he could provide a copy of the complaint investigation manual? The committee would be interested in seeing it in terms of understanding the process.

Also in question was whether there is a thought or a plan in process to set up an on-line complaint form? Possibly an e-mail in box. As Supervisor Archuleta remarked, to have the option to act on something that just happened and have a place to report it. On line being less intimidating than making a phone call and reporting something on their own time. Something accessible right on the onset of the occurrence.

Chief Longman replied that he would get them an investigation manual. Complaints can be made via e-mail in a place on the site that says, "e-mail us" but agrees that it could be more advanced to where someone could actually lodge a complaint. The chief said this was something he would report back to the committee on at the next meeting and did not see why it would be a problem to make these enhancements.

Chairman Archuleta called on Mr. Mildebrandt next. He said on a historical note regarding reporting, he knows what took place in the past. Part of this process was the pulling of records from past reports to ask questions of people regarding the officer's interaction with them. Mr. Mildebrandt indicated that he is quite sure this is still part of the process of investigation whether it has to do with racial profiling or not.

Chief Longman indicated that that procedure was still in effect. In the case of the complaint being anonymous, it is a good idea to check background records and history of an officer.

Board member Cabou asked one last question regarding probable cause and search. Is there a record of the time an officer makes a stop and when it ends? In other words is there a tracking system. Chief Gillette in a previous presentation said something about a six-minute log. I have seen this done before. A lot of times part of the allegation regarding racial profiling is "the stop took forever". Possibly asked to wait there while they called the canine unit, etc. The Length of a stop is sometimes the issue.

Chief Longman responded that officers do document these issues but due to budget restraints not all of the officers have hand computers so it could just be hand documentation. It could be done by notification to the dispatcher. Chief Longman indicated he was not prepared at this time to report the averages.

Board member Rivera asked if there is a record for every stop no matter what prompted the stop?

Chief Longman answered that he will say theoretically yes. He said generally officers are instructed to make sure the public knows why they made contact with them, who they are, identify themselves and conduct whatever action needed. I could see where some brief contact may not be documented – something where a snowstorm is happening, someone is pulled over but not far enough to be safe. Officer gets out - small brief interaction.

Mr. Rivera said, here is an example that may be interesting, humorous; possibly, I was pulled over after our last board meeting here. I had the cruise control set as I always do. The officer pulled me over and said my windows were too dark; he did not give me a citation. Would there or should there be record kept for that type of stuff?

Chief Longman said as many stops as out officers make on a daily basis something like that would probably be a record I would not be able to retrieve.

Mr. Rivera said his concern or thoughts lie in where there was not a record required there would be no data or a way to investigate a complaint regarding why he was pulled over or defense from the department. It may be just a gray area the Department needs to look into.

Chief Longman replied that in his experience as a Supervisor, he has always found that the correct practice is if you stop someone to document it.

Ms. Archuleta said she is especially interested in what Mr. Cabou brought up earlier regarding the detention of a person until a canine unit arrives because the policy for the racial bias in item G says an officer could not detain a vehicle or it's occupants for the sole purpose of waiting for a drug detection canine unless reasonable suspicion or probable cause exists. One of the things Supervisor Archuleta said she would be interested in for the next time the group meets is to find out what is the average time allotted for a stop and if there was more time given what would be the criteria for that stop? This does not seem clear in the policy how that is to be measured.

At this point Ms. Archuleta thanked the chief for his presentation.

#### **4. The State of Racial Profiling research in the United States today: What we know, what we don't know and where we need to go from here:**

Supervisor Archuleta introduce Dr. Fred Solop, Political Science Professor from Northern Arizona University and also with the social research lab at NAU.

Dr. Solop thanked the group for allowing him to make a presentation and gave some background on his experience. He said he was initially contacted by a local lawyer on a racial profiling case, which began his involvement on this type of research. Dr. Solop said his reason for being here today was to wear his

“academic hat” and to talk about the volumes of literature he has read. Media regularly reports news stories about protests and racial bias in the criminal justice system.

Dr. Solop said there was a recent program on the NAU campus-offering speakers on this topic or racial profiling, one being from a representative from the Coconino County Attorney’s Office. This representative said racial profiling could be used as a smokescreen by lawyers to dismiss charges against their clients.

A Defense Attorney later spoke and said when he got to law school he understood this to be called the constitution.

A starting place to understand racial profiling is to look at perceptions. When the Gallup poll asked Americans in 1999 their feeling on racial profiling. It was discovered that 59% surveyed (randomly selected) thought the practice was widespread and again in 2001, 55 percent of whites and 83% of African American’s thought the practice was widespread. Dr. Solop went on to give a variety of percentage information that was collected on who was searched when pulled in regards to ethnicity and racial profiling.

Dr. Solop indicated that due to these and other findings, within the settlement DPS has agreed to improve training procedures and create a citizen complaint line, requiring written consent to vehicle searches, videotape stops, etc. In addition the settlement (negotiated claims of racial profiling filed within the state) has called for this board (Citizens Traffic Stop Advisory) to review and monitor DPS compliance with the settlement. One year later after data has been collected, under terms of the settlement agreement, reports will be filed by the ACLU and The Department of Public Safety. ACLU has asked Dr. Solop to look at this first year of data.

The GTSAB has a unique opportunity to go over these reports and become committed to objectively assessing the data findings. This will lead to a new understanding of the relationship between DPS officers and the drivers in the state. It also will restore the community faith in DPS and enhance good will. It will also instigate conversation between stakeholders as to how police resources should be allocated.

Better communication is the key to making forward strides.

Dr. Solop said he has provided a range of materials for the board including some of the documents on how reporting should be conducted and how data should be used and some information on what is happening in other states with boards such as this one, etc.

Supervisor Archuleta thanked Dr. Solop for his presentation and then asked the group if they had any questions.

A question was posed to Dr. Solop on traffic stops among Anglo versus minority drivers – is the rate of stops any different? Dr. Solop answered that the rate

was about the same, but where the difference lies in what happens during the stop.

Have you seen any stats regarding stops versus searches in Arizona?

Dr. Solop answered that yes, there has been a lot of data on stops in this state; the question seems to be what is the benchmark to analyze the data.

The next question posed to Dr. Solop was, using your benchmarks and evaluation is there a difference between stops and searches in Arizona based on that you have seen?

Dr. Solop answered yes.

Do you have the percentages and the estimates and what is that tied too and what is it based on?

Dr. Solop said he would get back to the board members with that information at the next meeting. He said a lot of it is based on court cases.

Board member Cabou stated that it seems that the literature provided suggests that racial profiling occurs after the traffic stop. One of his questions on this topic was/has there been an effort from the academic community to revise their data points?

Dr. Solop said the “academics” have provided standards as to what data should be collected, possibly information about the policeman himself.

Mr. Cabou asked Dr. Solop if in his study and in his review of the literature had he had an occasion to look at the degree of racially biased policing, what are the efforts that are promising in terms of resolving the problem?

Dr. Solop said one of the key figures is John Landbrick. He has a consulting firm on training, collection of information and how to work with the community on this issue. He added that also promising is the process of a public board such as the Governor’s Traffic Stop Advisory Board.

The discussion ended and Supervisor Archuleta thanked Dr. Solop.

**5. Board Agenda Process:** Supervisor Archuleta introduced Dora Vasquez to present the first order of business. Dora introduced herself as the Director of the Governor’s Office on Boards and Commissions. Dora apologized for the absence of the Governor’s Office’s legal council Tim Nelson due to the fact that he is stuck in traffic.

Dora began her presentation by stating that Dr. Fernandez approached the Governor’s Office and staff regarding the uniform system for which the board collects agenda items. Chairman Hannah, Dr. Fernandez and herself spoke on the phone and came up with some items we thought would be agreeable to all, as an agenda process.

The uniform system begins with the outline of the Executive Order, examples of practices, racial profiling and traffic stops review of DPS records and data, sub committee reports, etc.

To insure that the board functions within the structure of the Executive Order, the following items should be considered inappropriate for the agenda.

- Requests for action by the board regarding individual complaints against law enforcement regarding racial profiling.  
*There is no mandate in the executive allowing the board to act in the capacity of a Hearing Board*
- A review of the litigation (Arnold, et al v. Arizona Department of Public Safety) *It is not the function of the board to re-hear the case.*

A process we believe would be fair is to allow our board members and staff to submit a request for placement on the agenda. Each of the nine members may submit a request to Dora 14 days before the meeting and a draft agenda will then will be e-mailed to each member for comments and review ten days before the meeting date.

Draft agenda's will be submitted for review to Susie Barr the Governor's Advisor for Law Enforcement as well as to our legal counsel and the chairman. All must fall within the scope of the Executive Order. All requests will then be included on the agenda after approval.

Any questions for Director Vasquez?

Board Member, Thomas Milldebrandt asked who determined whether an agenda item is within the scope of the Executive Order?

Dora replied that Tim Nelson is the Governor's General Counsel and Susie Barr is the Governor's Advisor for Law Enforcement. Mr. Milldebrandt requested that the attorney provide in writing the reason why if a request is not considered within the Executive Order. Dora Vasquez said that would be a fair request.

The next question came from Dr. Fernandez. He asked for clarification on whether or not board members are allowed to hear individual complaints but just not act on them? Is this correct? Dora answered that is correct.

Dora said the Board's Website will be live on Monday and it could be possible to add the DPS link to provide the public with access to the complaint procedure.

Mr. Cabou said his understanding was that Board members could take the public's comments and discuss it collectively as a board and consider the input. He gave an example of could one ask for a statistic from DPS if needed? Dora said yes that would be acceptable as long as no ruling regarding the individual complaint was made.



At this point Supervisor Archuleta announced that a member of the public would like to comment on this topic. Mr. Dexter Albert from Flagstaff introduced himself. Mr. Albert said that he reviewed the agenda process and the printout that was made available up front from the ACLU website.

Mr. Dexter said he supports an agenda process, but pointed out that on page two, last two bullets there was a discrepancy on the agenda regarding the time frame for legal counsel to reply to the board.

He also recommended adjustment to the policy to indicate that agenda items are subject to Arizona Open Meeting Law.

Chairman Archuleta thanked Mr. Dexter and asked Dora if it would be possible to have a written statement for denial of an agenda request eight days before a meeting and asked if the board was ready to proceed with a motion to adopt the agenda process.

**ACTION:**

**Board member Cabou made a motion to approve and adopt the agenda process, Board member Fernandez 2<sup>nd</sup> the motion. The motion passed unanimously.**

The board briefly discussed the agenda process for subcommittee meetings. The board agreed that subcommittee agendas would not have to be approved by staff or legal counsel however they felt it was important that the agenda's be posted at least three days before a subcommittee meeting was held.

**ACTION:**

**Board member Fernandez made a motion that subcommittee-meeting agenda's shall be sent to staff to post at least three days before a subcommittee meeting was held. Board member Cabou 2<sup>nd</sup> the motion and the motion passed unanimously.**

**6. Subcommittee Structure/Proposed Subcommittee Charters:**

Chairman Archuleta invited board member Fernandez to lead the discussion regarding subcommittees. Dr. Fernandez gave some background from the last meeting about the provision of categories of structure for subcommittees. These categories listed in the minutes from the last meeting are:

- 1) DPS hiring process;
- 2) DPS complaint review process;
- 3) DPS Training program;
- 4) Community relations;
- 5) Arnold v. DPS Lawsuit agreement – review and analysis;
- 6) DPS research and review process

Mr. Fernandez asked if external individuals with legal expertise could be included in the subcommittees? We were told we could is this correct?

Director Vasquez said yes.

Dr. Fernandez, asked, was the agreement then on the second point where we were told that further legal advice on category 5, did we hear yet?

Dora stated said number 5 regarding Arnold v. DPS was not appropriate. 1, 2, 3, 4 and 6 are acceptable.

The board discussed category 5 and board member Cabou stated that while the board should not revisit the lawsuit in it entirety it is appropriate that the board discuss aspects of the lawsuit as it pertains to the creation and purpose of the board.

Director Vasquez said that is correct and the category five could be amended to specify that the discussion of the lawsuit should be limited to the purpose and function of the board.

Supervisor Archuleta asked Dr. Fernandez of the six groups are they to be considered working groups?

Dr. Fernandez said that is left to be decided. These six groups are topics that we brainstormed and we are not prepared to make a recommendation yet. Chairman Archuleta asked if this was for policy review, but not necessarily a recommendation that had to be decided today? Mr. Fernandez said yes.

Supervisor Archuleta suggested moving forward to talk about these working groups. She asked the group if there was any input or suggestions on the six areas in question?

Chairman Archuleta said she personally thinks all are valuable and will leave to the subcommittee to delegate the number of working groups, etc. We will call them subcommittee-working groups, all in agreement? Yes.

**ACTION:**

**Dr. Fernandez made a motion to approve the six-subcommittee working groups. Board member Rivera seconded the motion and unanimously.**

**7.Board Forum:**

**This section of the agenda allows Board members to share information regarding issues related to the board.**

Mr. Cabou said he had one issue to bring to the board, as it seemed timely today as far as materials reviewed. The question is regarding inclusion as the Advisory Board begins to reach out to community – are there efficient funding resources to do some advertising other than just the websites?

Chairman Archuleta said the board should find out the proper protocol for press releases to get into the general media.

Mr. Cabou asked Director Vasquez if she could enlighten the committee as to the feasibility of funding for outside sources.

Director Vasquez said since the board was created by Executive Order the Governors Office will take care of press releases.

Dora Vasquez stated that she and Chief Longman would like to add an agenda item titled staff report which would give Chief Longman and herself the opportunity to share information with the board which may include a routine report from the DPS Director's Office.

Director Archuleta Yes, this will be a standing agenda item.

**8. Next Meeting Date:** November 16, 2007 at 4:00 PM. Location to be decided, possibly Casa Grande.

**9. Call To Adjourn**